

ASSEMBLY BILL

No. 237

Introduced by Assembly Member Bermudez

January 30, 2003

An act to amend Section 1253.3 of the Unemployment Insurance Code, relating to unemployment compensation benefits, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 237, as introduced, Bermudez. Unemployment insurance: unemployment compensation benefits: temporary employees of a community college.

Existing law prohibits the payment of unemployment compensation insurance benefits to employees of certain educational institutions for the period between 2 succeeding academic years or for vacation or holiday periods, as specified, if there is a reasonable assurance that the employee will perform services in the second of the academic years or terms. Existing law defines 'reasonable assurance' to include an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes.

This bill would clarify that an individual is not considered to have a reasonable assurance of employment if the individual qualifies as a temporary employee of a community college, as defined.

By providing for additional benefits to be paid from the Unemployment Fund, a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any entity as defined by Section 605, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any entity as defined by Section 605, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms. However, if the individual was not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely

1 claim for benefits and for which benefits were denied solely by
2 reason of this subdivision. Retroactive benefits shall be claimed in
3 accordance with the department's procedures which shall specify
4 that except where the individual was entitled to benefits based on
5 services performed for other than an educational institution, an
6 individual who has a reasonable assurance of reemployment may
7 satisfy the search for work requirement of subdivision (e) of
8 Section 1253, by registering for work pursuant to subdivision (b)
9 of Section 1253 during the period between the first and second
10 academic terms or years. A claim for retroactive benefits may be
11 made no later than 30 days following the commencement of the
12 second academic year or term.

13 (d) Benefits specified by subdivision (a) based on service
14 performed in the employ of a nonprofit organization, or of any
15 entity as defined by Section 605, with respect to services specified
16 by subdivision (b) or (c), are not payable to any individual with
17 respect to any week that commences during an established and
18 customary vacation period or holiday recess if the individual
19 performs the services in the period immediately before the
20 vacation period or holiday recess, and there is a reasonable
21 assurance that the individual will perform the services in the period
22 immediately following the vacation period or holiday recess.

23 (e) With respect to any services specified by subdivision (b) or
24 (c), compensation payable on the basis of services in that capacity
25 may be denied as specified in subdivision (b), (c), or (d) to any
26 individual who performed the services in an educational
27 institution while in the employ of an educational service agency,
28 and for this purpose the term "educational service agency" means
29 a governmental agency or governmental entity that is established
30 and operated exclusively for the purpose of providing the services
31 to one or more educational institutions.

32 (f) Benefits specified by subdivision (a) based on service
33 performed in the employ of a nonprofit organization, or of any
34 entity as defined by Section 605, are not payable during the periods
35 of time, and subject to the same conditions, contained in
36 subdivisions (b), (c), (d), and (h), if the services are provided to,
37 or on behalf of, an educational institution.

38 (g) (1) For purposes of this section, "reasonable assurance"
39 includes, but is not limited to, an offer of employment or
40 assignment made by the educational institution, provided that the

1 offer or assignment is not contingent on enrollment, funding, or
2 program changes. An individual who has been notified that he or
3 she will be replaced and does not have an offer of employment or
4 assignment to perform services for an educational institution is not
5 considered to have reasonable assurance.

6 (2) *Notwithstanding paragraph (1) of this subdivision, for*
7 *purposes of this section, an individual is deemed to have no*
8 *reasonable assurance of employment or assignment to perform*
9 *services for an educational institution if he or she qualifies as a*
10 *temporary employee of a community college, as defined in*
11 *subdivision (a) of Section 87482.5 of the Education Code.*

12 (h) For purposes of this section, if the time for service
13 performed during the period of and pursuant to any contract for
14 any academic year or term by an individual for any employing unit
15 as specified in subdivision (b) or (c) constitutes one-half or more
16 of the time in total service performed for the employing unit by the
17 individual during that same period for remuneration, all the
18 services of the individual for the employing unit for that period
19 shall be deemed subject to the benefit payment restriction
20 provisions of this section.

21 (i) Any entity as defined by Section 605, with respect to any
22 individual performing a service in any other capacity other than
23 specified in subdivision (b) for an educational institution, shall
24 provide a written statement indicating the following to the
25 individual no later than 30 days before the end of the first of the
26 academic years or terms:

27 (1) Whether or not there is a reasonable assurance of
28 reemployment.

29 (2) Whether or not it is stated that the individual has no
30 reasonable assurance of reemployment, that the individual should
31 file a claim for benefits at the close of the academic year or term.

32 (3) If it is stated that the individual has reasonable assurance of
33 reemployment, the written statement shall also inform the
34 employee that he or she may file a claim for benefits and that the
35 determination for eligibility for benefits is made by the
36 Employment Development Department and not by the employer.

37 (4) If it is stated that the individual has reasonable assurance of
38 reemployment, that the individual shall be entitled to a retroactive
39 payment of benefits if the individual is not offered an opportunity
40 to perform the services for the educational institution for the

1 second of the academic years or terms, if the individual is
2 otherwise eligible and he or she filed a claim for each week
3 benefits are claimed, and if a claim for retroactive benefits is made
4 no later than 30 days following the commencement of the second
5 academic year or term.

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